

MDR Tracking Number: M5-04-1033-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-09-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits; therapeutic exercises, therapeutic procedures, joint mobilization, myofascial release, special reports and office visits/outpatient established patient was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision are hereby issued this 3rd day of February 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 12-09-02 through 01-24-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 3rd day of February 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

February 2, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-04-1033-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was injured when working for the ___ a field supervisor for the water department when a large truck jumped a curb and hit him in the back, throwing him into the air. He suffered a fracture to the right elbow, along with neck, shoulder and mid & low back injuries. He also complained of sciatic pains. This incident occurred on ___.

MRI studies revealed herniated nucleus pulposus at C5-6 in the cervical spine and at L5-S1 in the lumbar spine. He underwent surgical repair of the open Olecranon fracture.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, therapeutic procedures, therapeutic exercises, joint mobilization, myofascial release, special reports and office visits/outpatient established patient,

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

This patient underwent a surgical procedure for repair of fracture to the Olecranon. There is some healing time, naturally with any surgical procedure, and with the placement of hardware in any body part, healing may be impeded simply because of the foreign body placement. The immobilization of any fracture causes a loss of mobility and requires rehabilitative procedures. In addition, ___ incurred damage to the cervical and lumbar spine. Office visits are necessary to continually assess patient progress and therefore should be approved. Therapeutic procedures (97150) and therapeutic exercises (97110) are a necessary component in regaining ROM and functional restoration of the fracture site, in this case, the elbow. With disuse of a joint, an injured region generally undergoes disuse atrophy. Since muscle spasm is likely on initiation of movement to a previously immobilized muscle, myofascial release and joint mobilization are not unreasonable (97250) (97265). The doctor is required by TWCC Regulation to file reports in a timely manner, updating the status of the injured employee, therefore (99080) is also medically necessary.

In summary, it is my recommendation that all procedures were medically necessary. This case was very well documented with numerous referrals to Orthopedists, who also recommended continuance of care.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,